

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

RICHARD PARKER

PLAINTIFF

V.

4:05CV00871-WRW

**CHARLES SANDERSON and
72 EXPRESS TRUCKING, LLC**

DEFENDANTS

ORDER

Pending is Defendants' Motion for an Independent Medical Examination (Doc. No. 7). Plaintiff has responded (Doc. No. 10).

It appears that most courts have held that complaints of routine mental anguish-type damages do not put a plaintiff's mental condition into play under Federal Rule of Civil Procedure 35(a).¹ There is authority to the contrary,² but, in this case, taking everything into consideration, Plaintiff's claims do not yet warrant a Rule 35 mental examination.

For the foregoing reasons, Defendants' Motion for Independent Medical Examination is DENIED. Also pending is Plaintiff's Motion for Leave to File an Amended Complaint (Doc. No. 9). Defense counsel does not object. Accordingly, Plaintiff's Motion is GRANTED. Plaintiff is directed to file the Amended Complaint by 3:00 p.m. Friday, May 26, 2006. The case is set for a jury trial on September 11, 2006, at 9:00 a.m. in Little Rock.

IT IS SO ORDERED this 24th day of May, 2006.

/s/Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

¹*Stevenson v. Stanley Bostitch, Inc.*, 201 F.R.D. 551, 553 (N.D. Ga. 2001); *see, e.g., O'Sullivan v. Minn.*, 176 F.R.D. 325, 327 (D. Minn. 1997).

²*Jansen v. Packaging Corp. of Am.*, 158 F.R.D. 409, 409 (N.D. Ill. 1994).